

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

EVANS FRUIT CO., INC., a Washington
corporation,

Plaintiff,

v.

HOOD RIVER JUICE COMPANY, INC.,
an Oregon corporation, and DAVID B.
RYAN, individually,

Defendants.

Case No. 3:18-cv-02140-BR

**STIPULATION OF UNDISPUTED
FACTS AND FOR ENTRY OF
JUDGMENT**

Plaintiff, Evans Fruit Co., Inc., a Washington corporation (“Evans Fruit”), and Defendants, Hood River Juice Company, Inc., an Oregon corporation (“Hood River Juice”), and David B. Ryan, individually (“Mr. Ryan”), stipulate as follows:

I. STIPULATION OF UNDISPUTED FACTS

A. From August 23, 2013, through December 31, 2014, Evans Fruit sold to Hood River Juice and Hood River Juice purchased and accepted, without objection, from Evans Fruit shipments of perishable agricultural commodities (“Produce”) with a total purchase price of \$3,500,000 (the “2014 Accounts Payable”).

B. On March 18, 2015, Ryan executed and delivered to Evans Fruit a promissory note promising to pay Hood River Juice’s \$3,500,000 obligation to Evans Fruit for the 2014 Accounts Payable, plus interest at an annual rate of four percent, in 36 monthly installments of \$51,088.11, beginning on April 1, 2015 and ending on March 1, 2018, followed by a \$2,000,000 balloon payment on April 1, 2018 (“Note 1”).

C. On March 18, 2015, Hood River Juice executed and delivered to Evans Fruit an absolute guarantee of Ryan's performance under Note 1 (the "Note 1 Guarantee").

D. On January 17, 2018, Ryan executed and delivered to Evans Fruit a promissory note promising to pay his \$2,000,000 April 1, 2018 balloon payment obligation under Note 1, plus interest at an annual rate of four percent, in 36 monthly installments of \$59,047.97 beginning on April 1, 2018 ("Note 1 Extension").

E. Hood River Juice and Ryan failed to make interest and principal payments on Note 1, the Note 1 Guarantee, and the Note 1 Extension from June 1, 2018, through February 28, 2019, in the total amount of \$453,433.13.

F. Hood River Juice and Ryan owe Evans Fruit \$1,813,995.72 in principal and interest through February 28, 2019 on Note 1, the Note 1 Guarantee, and the Note 1 Extension.

G. From 2016 through February 28, 2018, Evans Fruit sold and delivered fresh apples to Hood River Juice in the total invoice amount of \$1,869,437.61 and Hood River Juice failed to timely pay Evans Fruit for the apples (the "2018 Accounts Payable", together with the 2014 Accounts Payable, the "Transactions.").

H. On March 1, 2018, Hood River Juice executed and delivered to Evans Fruit a promissory note promising to pay Hood River Juice's \$1,869,437.61 obligation to Evans Fruit for the 2018 Accounts Payable, plus interest at an annual rate of four percent, in 36 monthly installments of \$18,927.15, beginning on April 1, 2018 and ending with a balloon payment of \$1,389,311.94 on April 1, 2021 ("Note 2").

I. On or about March 1, 2018, Ryan, individually, executed and delivered to Evans Fruit an absolute guarantee of Hood River Juice's performance under Note 2, which is incorporated in Note 2 (the "Note 2 Guarantee"; together with Note 1, the Note 1 Guarantee, the Note 1 Extension, and Note 2, the "Notes").

J. Hood River Juice and Ryan failed to make interest and principal payments on Note 2 and the Note 2 Guarantee from June 1, 2018, through February 28, 2019, in the total amount of \$125,019.00.

K. Hood River Juice and Ryan owe Evans Fruit \$1,834,934.33 in principal and interest on Note 2 and the Note 2 Guarantee through February 28, 2019.

L. Hood River Juice and Ryan, jointly and severally, are indebted to Evans Fruit on the Notes in the total amount of \$3,648,839.05 in unpaid principal and interest as of February 28, 2019, of which \$578,452.13 was past due on February 28, 2019.

II. STIPULATION FOR ENTRY OF JUDGMENT

1. Hood River Juice and Ryan dispute that Notes contain acceleration clauses, and assert that Evan Fruit's claim is limited to the \$578,452.13 in payments on the Notes they failed to pay as of February 28, 2019, rather than the entire \$3,648,839.05 balance.

2. In consideration for Evans Fruit's agreement to allow Hood River Juice and Ryan to consolidate the Notes into a new \$3,648,839.05 note and pay that note over time (the "Settlement Note"), Hood River Juice and Ryan agree to consent to judgment in this action for the \$578,452.13 in payments on the Notes they failed to make as of February 28, 2019.

3. The parties agree to the terms of the proposed Judgment, attached as Exhibit “A,” to resolve this action.

4. Nothing in this Stipulation for Judgment shall be deemed or construed to be a release, waiver or limitation of any of Evans Fruit’s rights against Hood River Juice, Ryan, and individuals or entities not a party to this stipulation, including as it relates to the transactions between the parties, including, but not limited to the Notes and the Settlement Note (the “Transactions”), all such rights of Evans Fruit being expressly reserved.

5. Judgment will be entered in Evans Fruit’s favor and against Hood River Juice and Ryan—jointly and severally—in the total amount of \$578,452.13, plus post-judgment interest at the rate of 4% per year from the date of entry of Judgment until paid in full.

6. By signing this Stipulation below on behalf of the parties, the undersigned represent and warrant that they have all requisite authority to bind the parties to the terms of this Stipulation for Judgment.

7. This Stipulation for Judgment may be executed in one or more counterparts, each of which when so executed is an original, but all of such counterparts constitute one and the same instrument. This Stipulation for Judgment, and any documents to be entered into in connection with this Stipulation for Judgment, will be considered signed when the signature of a party is delivered by facsimile or electronic transmission. The signature of any party provided by facsimile or electronically is an original signature for all purposes.

STIPULATED BY THE PARTIES:

Dated: May 14, 2019

Dated: May 14, 2019

EVANS FRUIT, INC.

HOOD RIVER JUICE, LLC

By: _____

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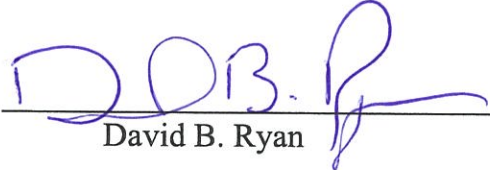
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Attorneys for Hood River Juice Company,
Inc. and David B. Ryan

Dated: May 14, 2019

DAVID B. RYAN, individually

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David B. Ryan